Supreme Court, U.S.
FILED
991352 FEB 10 2000

No.

IN THE

Supreme Court of the United States

Gloria J. Brown,

Petitioners,

v.

The New York City Police Department, et al

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Second Circuit

Petition for Writ of Certiorari

Teddy I. Moore, Esq.
160-05 Horace Harding,
Flushing, NY 11365
Tel. (718) 939-4866

Questions Presented

1. Whether "COSS" can be declared a corrupt enterprise under "Rico"

2. Whether, Chief Injustice, Mr. Ralph Winter can be brought to trial for racketeering, under "Rico" 18. U.S.C. 1961-1968

3. Whether there is a better resolution for the people than to shut down "COSS"

List of Parties

4. All parties do not appear in the caption of the case on the cover page. A list of parties to the proceedings in the court whose judgment is the subject of this petition is as follows.

Petitioners:

Gloria J. Brown

Respondents

The City of New York, Police Pension Fund, Article II, Medical Board, Board of Trustees of The New York City Police Pension Fund, Article II, Comptroller of The City Of New York.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
1. Celotex Vs. Catreet 477 U. S. 317 (1986)	1 - 2
2. O'Conner Vs. Consolidate 517 U. S. 308, 116	1 - 2
3. Zips Vs. T.W.A., 455 U. S. 385, 392 (1980)	1 - 2
STATUTES AND RULES	
1. 28 U.S.C., 1332, 1331, 1367	1 - 2
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully prays that a writ of certiorari issue to review the judgments below.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix "A" to the petition and is unpublished.
The decision of the United States district court appears as "B" and there is nothing to be published.

JURISDICTION

The date on which the United States Court of Appeals decided my case was 11/18/99.

No petition for rehearing was filed in this case.
The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The people have a right to due process and a right to access to courts along with the right of fair review of erroneous District Court decisions which is denied by COSS

STATEMENT OF THE CASE

BACKGROUND

1. This is another case in an endless row of injustice carried out by the Court of Appeals for the Second Circuit ("COSS").

2. Petitioner request to consolidate this case with case 99-1197 to be heared together. (Carl M. Spencer vs. New York City Transit Authority, et al.)

3. Improper review of lower court decision is the main culprit of mistrust of the legal system and in the extremes is responsible for execution of innocent people on death row.

REASONS FOR GRANTING THE PETITION

4. There can not be a more compelling issue to be reviewed by this court, than the issues of corruption of the legal system. If this issue is not resolved properly all other issues which are a predicate, are moot.

5. Based on media reports this courts intends to review several cases based on "Rico" and this case should be consolidated with the other cases, and reviewed properly.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

Teddy I. Moore, esq.
160-05, Horace Harding
Flushing, NY 11365
Tel.: (718) 939-4966

Date: Feb. 5, 2000

APPENDIX "A"

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 18th day of November one thousand nine hundred ninety-nine.

Present: HONORABLE WILFRED FEINBERG,
HONORABLE ROGER J. MINER,
HONORABLE ROBERT D. SACK,
Circuit Judges.

GLORIA J. BROWN,

Plaintiff-Appellant,

- v - No. 99-7555

THE NEW YORK CITY POLICE DEPARTMENT, THE CITY OF NEW YORM, POLICE PENSION FUND, ARTICEL II, Me0dical Board, BROAD OF TRUSTEES OF THE NEW YORK CITY POLICE PENSION FUND, ARTICLE II, COMPTROLLER OF THE CITY OF NEW YORK.

Defendants-Appellees.

Appearing for Appellant: Teddy I. Moore, Law Office of Teddy I. Moore, Esq., Flushing, NY

Appearing for Appellee: Helen P. Brown, Assistant Corporation Counsel (Michael D. Hess, Corporation Counsel), New York, NY.

Appeal from a judgment of the United States District Court for the Sourthern District of New York (Alvin K. Hellerstein, Judge).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the district court be, and it hereby is, AFFIRMED.

Plaintiff f Gloria J. Brown was a police officer with the City of New York from 1973 to February 1987. During the time she served as a police officer, Brown sustained three separate injuries in two accidents. As a result, she was eligible for early retirement and applied for "accident disability retirement benefits" in March 1986. **The Medical** Board determined that the pain and injury the plaintiff was then experiencing was not the result of any harm incurred in the line of duty. It therefore decided that Brown should receive "ordinary" disability benefits. The Board of Trustees of the Police Pension Fund directed the Medical Board to reconsider its evaluation. On December 11, 1986, the Medical Board adhered to its initial determination. On February 23, 1987, by a tie vote, the Board of Trustees denied the plaintiff her request for "accident" benefits and granted her only "ordinary" benefits.

In May 1987, the plaintiff commenced an Article 78 proceeding in state court for review of the benefit determination. She claimed that the Board's decision was unreasonable, arbitrary, and Capricious. On March 28, 1988r the New York Supreme Court found that the Medical Board had failed to consider all the available evidence in rendering lts recommendation and therefore remanded the case back to the Board of Trustees. In June 1988~ the Board of Trustees directed the Medical Board to reevaluate the plaintiff's case. After a ser es of reviews, the Medical Board again concluded that the plaintiff was not entitled to accident benefits. The Board of Trustees

denied the plaintiff's request for the last time on April 15~ 1992. The Supreme Court affirmed that decision on February 4, 1993. The plaintiff appealed to the Appellate Division, which affirmed the Supreme Court's decision on January 12, 1995. See Brown v. Ward, 211 A.D.2d 469 (1995). During the course of oral argument before the Appellate Division (in October 1994), one of the Justice's comments may have led Brown to believe that there may have been discriminatory conduct by the defendants in the evaluation of her case.

On June 6, 1995, the plaintiff filed a complaint with the EEOC alleging that she had been discriminated against on the basis of race and sex in the denial of accident benefits. On August 27, 1996, the EEOC informed the plaintiff that she had failed to file her claim in a timely fashion and therefore there could be no investigation. The EEOC letter also served as a "right to sue" notice. The plaintiff filed the instant complaint in the United States District Court for the Southern DIstrict of New York on December 12, 1996. An amended Complaint was f iled on September 11, 1997.

After a hearing, the district court granted the defendants motion for summary judgment in a decision delivered from the bench. The court found that the plaintiff's cause of action accrued on or before April 1992 and therefore she had failed to file her complaint with the EEOC within the applicable 300-day period. The court also found that to the extent the plaintiff's complaint stated a claim pursuant to 42 U.S.C. § liS3, that cause of action was barred by the applicable three-year statute of limitations. This appeal followed.

We review the district court's dismissal of thLe complaint de nova, see Comer v. Cisneros, 37 F.3d 775, 786 (2d Cir. 1994). The plaintiff claims that the district court erred because her EEOC filing and district court complaint both allege continuing violations and therefore were timely. Alternatively/ the plaintiff argues that the doctrine of equitable tolling Should be applied so that the 300-day period to file her EEOC Complaint and three-year statute of limitations period for her § 1983 claim did no: start running until October 1994. We disagree.

Under the continuing violation doctrine, a limitations period does not commence until the last discriminatory act in furtherance of a continuous practice and policy of discrimination has taken place. See Lambert v. Genesee Hosp., 10 F.3d 46, 53 (2d Cir. 1993). There must, however, be "evidence of specific discriminatory practices such as the repeated use of discriminatory seniority lists or employment tests.' Lightfoot v. Union Carbide Corp., 110 F.3d 898, 907 (2d Cir. 1997)* The only material that the plaintiff presented that could be construed as evidence of a discriminatory policy or custom was based on three incidents and characterized by the distrust court as speculative and hearsay Such limited evidence does not present a situation similar to those where we have applied the continuing violation doctrine. See id.

Further, we disagree with the plaintiff's contention that the doctrine of equitable tolling applies here. "[E]quitable tolling [has been allowed] in situations where the claimant has actively pursued [her] judicial remedies by filing a defective pleading during the statutory period or where the complainant has been induced or tricked by [her] adversary's misconduct intoe allowing the filing deadline to pass." Irwin v. Department of Veterans Affairst 498 U.S. 89, 96 (1990). "[A] plaintiff's failure to act diligently is not a reason to invoke equitable tolling." South v. Saab Cars USA, Inc., 28 F.3d 9, 12 (2d Cir. 1994)

Here, it appears that the plaintiff did not conslder a discrimination action until a Justice at the Appellate Divlsion nored irregularities in the administrative proceedings. The plaintiff has not presented any evidence that the defendants "took tangible steps either alone or through a conspiracy to conceal the nature of their activities toward [her]' so as to counsel for the application of equitable tolling. Pinaud v. County of Suffolk, 52 F.3d 1139, 1158 (2d Cir. 1995). The plaintiff simply failed to act diligently and therefore equitable tolling does not apply.

For the foregoing reasons, the judgment of the district [2 Court is hereby AFFIRMED.

FOR THE COURT:
KAREN GREVE MILTON,
Acting Clerk
(Signed)
By: Date: 11/18/99

APPENDIX "B"

(STAMPED) U.S. DISTRICT COURT
Filed March 25, 1999
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

GLORIA J. BROWN,

Plaintiff,

96 **CIVIL** 9333 (AKH)

JUDGMENT

- against -

NEW YORK CITY POLICE DEPT., et al.,

Defendants.

----------X

Defendants having moved for summary judgment and the matter having come before the Honorable Alun K. Hellerstein, United States Distnct Judge, and the Court on March 19, 1999 having rendered its Order granting defendants' motion for summary judgment, it is.

ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated March 19, 1999, defendants' motion for summary judgment is hereby granted;accordingly, this case is closed.

Dated: New York, New York
March 25, 1999

JAMES M. PARKISON

Clerk of Court
By: Signed

Deputy Clerk

THIS DOCUMENT WAS ENTERED ON THE DOCKET ON 3/25/99